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SUBJECT: LETTER FROM THE MINISTER OF JUSTICE TO
ATTORNEY GENERAL ASHCROFT

1. (U) Sensitive But Unclassified. Please treat accordingly.

TEXT OF LETTER FROM MOJ

2. (SBU) The Minister of Justice Davit Harytyunyan's staff transmitted the following letter to the Embassy July 28, noting that it had also been sent to the Attorney General through other channels. End Summary. The English-language text of the letter from Minister of Justice follows. Begin Text:

July 27, 2004

The Honorable John Ashcroft
Attorney General of the United States of America
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530-0001

re: Martin Marootian, et al., on behalf of themselves and all others similarly situated, Plaintiffs v. New York Life Insurance Company, Defendant, Case No. C99-12073 CAS (MCx) in the United States District Court, Central District of California (the "Court").

Dear Mr. Attorney General:

I am writing at the request of citizens of the Republic of Armenia and on behalf of other Armenians who are potential class members in the above-referenced class action case to seek your intercession before a settlement agreement is approved at the Final Fairness Hearing, effectively foreclosing their right to obtain just compensation from the New York Life Insurance Company ("NYLIC"). The Final Fairness Hearing is scheduled for 9:30 a.m. on Friday, July 30, 2004, before U.S. Judge Christina A. Snyder in Courtroom 5 of the United States District Court, Los Angeles, CA.

Unfortunately, this case and its implications for the rights of Armenians have been brought to the attention of the government of the Republic of Armenia recently by descendants of NYLIC policy holders in Armenia after the opt-out period had passed. Now the case is at a critical juncture when some of class members are pursuing a settlement that is likely to foreclose for all practical purposes the rights of Armenian citizens and the citizens of other nations.

Approximately 85 years ago, the U.S. government assisted NYLIC in successfully avoiding the claims of the Republic of Turkey to what NYLIC estimated in correspondence with the U.S. government to be the USD 7 million face value of policies of Armenians that perished in the Armenian Genocide. Now, some 90 years after the Armenian Genocide, NYLIC is proposing to settle the claims of all Armenians worldwide for Genocide insurance claims for what could be as little as USD 7 million for the descendants of Armenian insureds. Additional amounts will go to American charities with an Armenian focus, attorneys fees and administrative costs for a total of USD 20 million.

At this juncture, we do not have enough information to determine if this is a fair and equitable settlement. Nonetheless, we do note with significant concern and interest that when NYLIC successfully asked the U.S. government for protection from the claims of the Republic of Turkey 85 years ago, it estimated its liability on this issue to be USD 7 million and now when it has come time to pay the descendants of the Armenian insureds, it has produced a list of policyholders

for the purposes of settlement that totals somewhere between USD 700,000 and USD 1.34 million.

On behalf of our citizens, which we believe may represent one-third to one-half of the worldwide class members of this case, the Republic of Armenia would like a modest amount of time to determine (i) if the overall amount is fair and equitable, (ii) if the case has been handled properly (as you know, the interests of plaintiff and contingency fee lawyers are frequently divergent from their clients), (iii) if there has been an adequate forensic accounting of sorts to explain how a USD 7 million liability has become a USD 700,000 to USD 1.34 million liability.

Although many of the potential class members in this case reside in the United States, it is our understanding and belief that more of the potential class members live outside of the United States. After the Armenian Genocide, the majority of Armenians took refuge in what is now Armenia, Russia and other countries outside of the United States.

In the past, Armenians dispersed throughout the world did not have a sovereign representative to protect the nation's interests or the interests of those individuals of Armenian ancestry who live outside of Armenia. With regained independence, the Republic of Armenia is in a position to protect and promote national interests and by this letter seeks to play a constructive role in assuring that the resolution of this and similar claims is concluded fairly and equitably for all potential beneficiaries, including distribution of a portion of the settlement to charitable organizations in the United States and elsewhere.

We are concerned that, among other things, the court case and ensuing settlement have not given the potential class members in Armenia and other countries outside of the United States effective or adequate notice of their rights to participate in or opt out of this class action. Although announcements of the settlement were carried in approximately eight U.S.-based newspapers of general circulation and community newspapers, we note that only two newspapers in Armenia, with a combined circulation of under 5,000 carried the notice. What was even more disappointing was that the key information was contained in a website whose address was incorrectly printed in these Armenian newspaper announcements.

Given the lack of experience with and awareness of U.S. class actions in Armenia, these announcements fall significantly short of internationally guaranteed norms of due process. Moreover, many other large populations of Armenians, who are potential class members, for example, in Russia and other countries, have not had even this level of notice about their rights and options. While we understand that it is not possible to reach every possible class member, in order to assure minimum due process and fairness, the large populations in Armenia, Russia, Middle East and elsewhere in the CIS, representing more than three times the number of potential class members as in the U.S., required effective notice and a meaningful opportunity to be heard, which was not given.

The Republic of Armenia seeks your intercession and support for a six-month temporary extension of the Fairness Hearing in this case. While we understand that speedy closure of proceedings is desirable, under the circumstances, this continuance of the proceeding will help to avoid collateral litigation in the U.S. courts and abroad, conserve judicial resources, and assure a fair outcome not only for the hundreds of thousands of potential claimants/beneficiaries in the United States, but also for the millions of potential claimants/beneficiaries in Armenia, Russia and elsewhere.

Sincerely yours,

/s/

Davit Harytyunyan
Minister of Justice

cc: Honorable Judge Christina Snyder

End Text.
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